

1 **LAW OFFICE OF FRANK SORRENTINO**  
2 FRANK SORRENTINO, ESQ.  
3 Nevada Bar No. 000421  
4 BONNIE BOYCE, ESQ.  
5 Nevada Bar No. 000870  
6 1118 East Carson Avenue  
7 Las Vegas, Nevada 89101  
8 (702) 384-6824  
9 Attorneys for Debtors

**E-Filed On: 10-23-2009**

7 **UNITED STATES BANKRUPTCY COURT**

8 **DISTRICT OF NEVADA**

10 In Re

11 **TOM D. STUMBO**

12 Debtors.

Case No. BK-S-05-27478-LBR  
Chapter 13  
Trustee: Kathleen A. Leavitt

Hearing Date: December 3, 2009

Hearing Time: 2:30 p.m.

15 **MOTION TO REINSTATE AUTOMATIC STAY**

16 Debtor, TOM D. STUMBO, by and through his counsel, BONNIE BOYCE, ESQ.,  
17 of the LAW OFFICE OF FRANK SORRENTINO, requests this Court to vacate the Ex  
18 Parte Order Terminating the Automatic Stay entered on August 3, 2009 with respect to  
19 Debtor's residence, and reinstate the Automatic Stay.  
20

21 **POINTS and AUTHORITIES**

22 THE COURT MAY RELIEVE A PARTY FROM AN ORDER DUE TO MISTAKE,  
23 INADVERTENCE, SURPRISE OR EXCUSABLE NEGLECT.

24 Pursuant to Bankruptcy Rule 9024, FRCP 60 (b) applies where a party requests  
25 relief from a judgment or order entered by the Bankruptcy Court.

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1 FRCP 60 (b) states as follows:

2 "On motion and upon such terms as are just, the Court may relieve a party or a  
3 party's legal representative from a final judgment, order or proceeding for the  
4 following reasons:

5 (1) Mistake, inadvertence, surprise, or excusable neglect..."

6 Under Section 11 USC §350 of the Bankruptcy Code the following applies:

7 (b) A case may be reopened in the court in which such case was closed to  
8 administer assets, to accord relief to the debtor, or for other cause.

9 **STATEMENT OF FACTS**

- 10 1. On October 16, 2005, Debtor filed a petition in the captioned case under  
11 Chapter 13 of the U.S. Bankruptcy Code.  
12 2. Debtor became delinquent on post-petition mortgage payments and the  
13 creditor filed a Motion for Relief from the Automatic Stay, which resulted in  
14 an adequate Protection Order.  
15 3. Debtor cured all post-petition arrears but fell behind again.  
16 4. Debtor is prepared to cure all post-petition defaults but Wells Fargo will  
17 not accept his payments to do so.  
18 5. Debtor will continue timely payments thereafter until his Chapter 13 Plan  
19 is completed, if stay is reinstated.  
20 6. Debtor has signed an Affidavit, attached hereto, verifying accuracy of this  
21 statement.

22 WHEREFORE, the Debtor respectfully prays that this Honorable Court: (a)  
23 Vacate the Ex-Parte Order Vacating Stay entered on August 3, 2009; (b) reinstate the  
24 Automatic Stay; and (c) permit the Debtor to proceed with his Chapter 13 bankruptcy.

25 DATED this 23<sup>rd</sup>, day of October, 2009.

26 LAW OFFICE OF FRANK SORRENTINO

27 By: /s/ Bonnie Boyce  
28 BONNIE BOYCE, ESQ.  
Nevada Bar No. 000870  
1118 East Carson Avenue  
Las Vegas, NV 89101  
Attorney for Debtor

Exhibit "A"

**AFFIDAVIT OF TOM D. STUMBO IN SUPPORT OF MOTION TO REINSTATE  
AUTOMATIC STAY**

STATE OF NEVADA        }  
COUNTY OF CLARK       } ss:

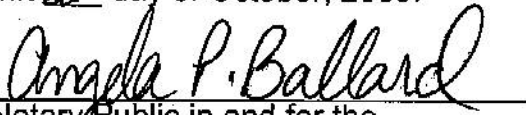
TOM D. STUMBO, being duly sworn under oath and penalties of perjury,  
deposes and says:

1. On October 16, 2005, I filed a Chapter 13 Bankruptcy with the Law Office of Frank Sorrentino.
2. I became delinquent on post-petition mortgage payments and the creditor filed a Motion for Relief from the Automatic Stay, which resulted in an adequate Protection Order.
3. I cured all post-petition arrears but fell behind again.
4. I am prepared to cure all post-petition defaults but Wells Fargo will not accept my payments to do so.

Dated this 22 day of October, 2009.

  
TOM D. STUMBO

Sworn to and Subscribed Before Me  
this 22<sup>nd</sup> day of October, 2009.

  
Notary Public in and for the  
County of Clark, State of Nevada

